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**SEP 22 2008**

**OFFICE OF PETITIONS**

|                                 |   |                         |
|---------------------------------|---|-------------------------|
| In re Application of            | : |                         |
| Ahmed A. Busnaina               | : | DECISION ON PETITION TO |
| Application Number: 09/819578   | : | WITHDRAW HOLDING OF     |
| Filing Date: 03/28/2001         | : | ABANDONMENT             |
| Attorney Docket Number: 837BUS- | : |                         |
| X                               | : |                         |

This is a decision on the petition filed on August 8, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely and properly respond to the final Office action mailed on January 14, 2008, which set a three (3)-month shortened statutory period for reply. On March 14, 2008, an amendment after final rejection was filed. On April 2, 2008, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on March 14, 2008 fails to place the application in condition for allowance. Notice of Abandonment was mailed on August 6, 2008.

Petitioners aver that a Request for Continued Examination (RCE) was timely filed by facsimile on April 12, 2008. In support, petitioners submitted with the petition a copy of the RCE allegedly filed. The RCE bears a Certificate of Mailing or Transmission dated April 12, 2008, signed by petitioner's registered patent practitioner, James Marc Leas. The petition is also signed by attorney Leas and states that applicant filed an RCE on April 12, 2008. A copy of the sending unit's receipt as well as the USPTO Auto-Reply Facsimile Transmission report,

showing receipt of three (3) pages on April 12, 2008, has also been supplied.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the **original** response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

As the petition is signed by practitioner Leas, the person who signed the Certificate of Transmission, the petition is construed as satisfying item (2) above.

As petitioners have provided convincing evidence that a proper response to the final Office action was transmitted to the USPTO on April 12, 2008, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is withdrawn, and the notice of abandonment is vacated.

The application is being referred to Technology Center Art Unit 1792 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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